



State of Wisconsin
2005 - 2006 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY JOINT RESOLUTION 77**

April 11, 2006 – Offered by Representative WOOD.

1 **To create** section 11 of article VIII of the constitution; **relating to:** creating a
2 revenue limit for the state and local governmental units, depositing excess
3 revenue into an emergency reserve fund, returning excess revenue to
4 taxpayers, elector approval for exceeding the revenue limit, state and local
5 governmental approval for reducing the revenue limit, requiring the state to
6 reduce its revenue limit in conjunction with reduction in state aid, prohibiting
7 the state from using bonds to pay for operating costs, reimbursing the
8 reasonable costs of imposing state mandates, standing to bring a suit to enforce
9 the revenue limits, and requiring the approval of only one legislature to amend
10 the revenue limit provisions (first consideration).

11 **Resolved by the assembly, the senate concurring, That:**

12 **SECTION 1.** Section 11 of article VIII of the constitution is created to read:

13 [Article VIII] Section 11 (1) In this section:

1 (a) “Income factor” means the percentage that is the average of the annual
2 percentage increases, if any, in state personal income growth for each of the 3 most
3 recent years available.

4 (b) “Inflation factor” means the percentage that is the average of the annual
5 percentage increases, if any, in the consumer price index for Milwaukee–Racine, or
6 its successor index, for each of the 3 most recent years available.

7 (c) “Local governmental unit” means a county, municipality, special purpose
8 district, school district, or technical college district.

9 (d) “Municipality” means a city, village, or town, not including a town whose
10 budgeted revenue is less than \$1,000,000 in 2010 or, in subsequent years, less than
11 \$1,000,000 increased annually by the inflation factor. A district, utility, or other
12 entity, not including a lake or sanitary district, that receives moneys from taxes or
13 fees, and that is created by a city, village, or town, is included as part of the city,
14 village, or town that created it for purposes of determining the limits under this
15 section.

16 (e) “Population” means annual population estimates adjusted by the most
17 recent federal decennial census, as determined by the state.

18 (f) “Revenue” means all revenue, except taxes levied by a county for the
19 purposes of a children with disabilities education board, if the board existed prior to
20 January 1, 2005, moneys used to pay the debt service on economic development
21 bonds as defined by law, one–time grants, interfund transfers, moneys received by
22 a local governmental unit under sub. (8), moneys deposited into a fund under sub.
23 (3), moneys received from the issuance of bonds or from short–term cash borrowing,
24 moneys used to pay a settlement or damage award, moneys used for expenses arising
25 from a natural disaster or terrorist attack, or moneys received from the federal

1 government, from the state or a local governmental unit for providing governmental
2 services for governmental entities, from gifts, from settlements or damage awards,
3 or from real or personal property sales, moneys received for the operation of a
4 telephone, gas, electric, sewerage, or water utility, or moneys received for medical
5 care provided by a facility that is operated by any entity that is subject to the limits
6 imposed under this section, from unemployment insurance taxes, from insurance
7 premiums, from public employee or retiree payments for fringe benefits, from
8 governmental property insurance, from investment trusts, from private purpose
9 trusts, from college savings programs, from fees imposed for airport or mass
10 transportation systems, or from tuition or fees imposed for university or technical
11 college functions. "Revenue" includes moneys retained by a trustee for the purpose
12 of issuing, or paying debt service on, revenue bonds. The legislature, by law, may
13 exclude from "revenue" moneys generated by a local governmental unit from
14 amounts paid voluntarily into an enterprise fund or from licenses or fees, if the
15 money does not exceed the cost of issuing the license or providing the service
16 associated with the license or fee.

17 (g) "Special purpose district" means any entity that is authorized to collect
18 taxes or fees, other than the state, a school district, a technical college district, a
19 sanitary or sewage district, a county, a municipality, or a town.

20 (2) (a) Subject to subs. (3) to (7), (10), and (11), the state or a local governmental
21 unit, not including a school district, may not collect more in revenue, in 2010, than
22 the amount it collected in 2009, or, in any subsequent year, than the maximum
23 amount it was permitted to collect in the previous year under this section, both as
24 increased by the lesser of the inflation factor or the income factor, plus:

1 1. For the state, a special purpose district, or a technical college district, the
2 annual percentage increase, if any, in the population.

3 2. For a municipality or county, 67 percent of the annual percentage increase,
4 if any, in taxable property values attributable to new construction, less the taxable
5 value of any property removed or demolished.

6 (b) Subject to subs. (5) and (6), each school district may collect in revenue the
7 amount allocated to it by the legislature by law. The sum of all amounts allocated
8 under this paragraph shall not exceed, for 2010, the revenue collected by all school
9 districts in 2009, and, in each subsequent year, the maximum amount of revenue
10 that all school districts taken together were permitted to collect in the previous year
11 under this section, both as increased by the lesser of the inflation factor or the income
12 factor, and the annual percentage changes, if any, in the enrollment of all school
13 districts taken together for each of the 3 most recent years available.

14 (c) If a town or village that is not subject to the revenue limit under this section
15 for 2010 becomes subject to the limit after that year, the town's or village's base year
16 revenue amount for computing the revenue limit for the current year equals
17 \$1,000,000 increased annually by the inflation factor through the previous year.

18 (3) (a) If the revenue received by the state in any year exceeds its limit under
19 this section, the state shall deposit into an emergency reserve fund all of the excess
20 revenue, except that the fund's total may not exceed 8 percent of the state's revenue
21 in the previous year.

22 (b) The state shall return to the taxpayers any excess revenue that is not
23 deposited into the emergency reserve fund. A refund made under this paragraph
24 shall be made in the year immediately following the year in which the state has
25 excess revenue.

1 (c) Expenditures may be made from the emergency reserve fund only for relief
2 from taxes imposed by the state, for expenses arising from a natural disaster or
3 terrorist attack, or in a year in which the state's limit under this section is greater
4 than the state's revenue.

5 (d) A local governmental unit shall return to the taxpayers any excess revenue.
6 A refund made under this paragraph shall be made in the year immediately following
7 the year in which the local governmental unit has excess revenue.

8 (4) The state may not deposit more revenue into a segregated fund, in 2010,
9 than the amount it deposited into that fund in 2009, or, in any subsequent year, than
10 the maximum amount it was permitted to deposit into that fund in the previous year
11 under this subsection, both as increased by the lesser of the inflation factor or the
12 income factor, plus the percentage increase from the previous year in the population
13 of the state. No revenue designated, on or after January 1, 2006, for use through a
14 segregated fund may be used for any other purpose.

15 (5) The state, by law, or a local governmental unit, by majority vote of the
16 governing body, may reduce its revenue limit. The state or a local governmental unit
17 may exceed its revenue limit only with the approval of the electors of the state or local
18 governmental unit, respectively, at a referendum. The referendum shall specify
19 whether the increase in the revenue limit is on a recurring or nonrecurring basis.

20 (6) The legislature may, by law, adjust any limit imposed under this section:

21 (a) To accommodate the transfer of services from any entity subject to a limit
22 under this section to any other such entity, including the transfer of services that
23 results from annexation. Any increase to a entity's limit under this paragraph shall
24 be offset with a corresponding decrease to the limit of other entities affected by the
25 transfer of services.

1 (b) To reflect the elimination or reduction of a state-mandated service.

2 (c) To allocate the amount of the final year's increment of a tax incremental
3 district to local governmental units in proportion to their levy rate's contribution to
4 the increment.

5 (7) The state revenue limit under this section for any year shall be reduced by
6 the amount of any reduction in that year in the aggregate amount of state aid to any
7 of the categories of county, city, village, town, special purpose district, school district,
8 or technical college district, as compared to the previous year.

9 (8) A state law or administrative rule that increases a local governmental unit's
10 expenditures may not be enacted or adopted on or after the ratification of this
11 subsection unless the state pays the reasonable costs incurred by the entity to comply
12 with the law or rule. This subsection does not apply to any law or rule that is enacted
13 or adopted in order to comply with a requirement of federal law, including a
14 requirement related to receiving federal aid.

15 (9) No local governmental unit may be required under state law to increase its
16 annual compensation for any employee or group of employees by a percentage that
17 exceeds the allowable percentage increase in the revenue limit for that local
18 governmental unit under this section.

19 (10) The legislature by law may exempt a village from the limits imposed under
20 this section if the village's budgeted revenue is less than \$1,000,000 in 2010 or, in
21 subsequent years, less than \$1,000,000 increased annually by the inflation factor
22 and if the village's budget or tax levy is approved by the electors of the village at an
23 annual meeting.

1 (11) A special purpose district may use revenue collected in excess of the limit
2 imposed under this section to retire or defease debt that was incurred prior to
3 January 1, 2006.

4 (12) All moneys received by the state, or by another person on behalf of the
5 state, from any type of borrowing may only be used for a purpose specified in section
6 7 (2) (a) of article VIII, except that the state may borrow moneys for cash flow
7 purposes if the moneys are fully repaid in the same fiscal year in which they are
8 borrowed. The state may not refund any type of borrowing if that refunding would
9 increase the state's debt service obligation in any fiscal year. The state may not enter
10 into an agreement or arrangement relating to any type of borrowing unless the
11 financial benefits from that agreement or arrangement accrue proportionately over
12 the life of the agreement or arrangement.

13 (13) Any individual or class of individuals residing in this state has standing
14 to bring a suit to enforce this section as it relates to the state or to the local
15 governmental unit in which the individual or class of individuals resides or pays
16 property taxes.

17 (14) Section 1 of article XII applies to any proposed amendments to this section
18 that are directly related to the revenue limits under this section, except that,
19 notwithstanding section 1 of article XII, if a proposed amendment to this section is
20 ratified by a majority of the members of each house of the legislature, it shall be
21 submitted to the people for approval and ratification without being referred to the
22 legislature to be chosen at the next general election.

23 **SECTION 2. Numbering of new provision.** The new section 11 of article VIII
24 of the constitution created in this joint resolution shall be designated by the next
25 higher open whole section number in that article if, before the ratification by the

1 people of the amendment proposed in this joint resolution, any other ratified
2 amendment has created a section 11 of article VIII of the constitution of this state.
3 If one or more joint resolutions create a section 11 of article VIII simultaneously with
4 the ratification by the people of the amendment proposed in this joint resolution, the
5 sections created shall be numbered and placed in a sequence so that the sections
6 created by the joint resolution having the lowest enrolled joint resolution number
7 have the numbers designated in that joint resolution and the sections created by the
8 other joint resolutions have numbers that are in the same ascending order as are the
9 numbers of the enrolled joint resolutions creating the sections.

10 ***Be it further resolved, That*** this proposed amendment be referred to the
11 legislature to be chosen at the next general election and that it be published for 3
12 months previous to the time of holding such election.

13 (END)